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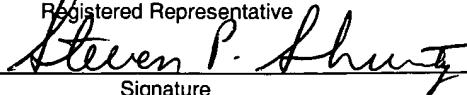
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December 11, 2006

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Our Case No.: 1391/1576

#### IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Barbara Stawski et al.

Serial No.: 10/810,461

Examiner: K. Mahafkey

Filing Date: March 26, 2004

Group Art Unit No.: 1761

For: CONFECTIONARY WITH FAST FLAVOR 12/14/2006 BABRAHA1 00000038 10810461  
RELEASE JACKET COATING 01 FC:1402 500.00 OP

#### APPEAL BRIEF

Mail Stop Appeal Brief - Patents  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

12/14/2006 BABRAHA1 00000037 10810461  
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Dear Sir:

This is an appeal from the Final Rejection dated May 8, 2006, of claims 1-21, 30, 31 and 33-36, all the rejected claims pending in the above captioned case.

#### I. REAL PARTY IN INTEREST

The present application is owned by the Wm. Wrigley Jr. Company.

#### II. RELATED APPEALS AND INTERFERENCES

There are no related Appeals or Interferences for this case.

### **III. STATUS OF CLAIMS**

Claims 1-37 are pending. Claims 22-29 and 32 have been withdrawn. While claim 37 has not been specifically addressed in the Final Rejection, since it is dependent on claim 29 (which was withdrawn), claim 37 is also being treated as having been withdrawn. Claims 1-21, 30, 31 and 33-36 were all rejected, and are all being appealed. No claims have been allowed.

### **IV. STATUS OF AMENDMENTS**

No amendments have been filed since the Final Rejection.

### **V. SUMMARY OF CLAIMED SUBJECT MATTER**

The claimed invention relates to confections, and particularly to boiled hard candy types of confectionary with a fast flavor release jacket coating. The application discloses various ways of making jacketed hard candy products and the jacketed hard candy products themselves.

Many different boiled hard candy confections are known, such as suckers, starlight mints, butterscotch buttons, etc. Many of these confections are made with water, sucrose and corn syrup, boiled to a water content level that results in a hard candy when the material cools. Different flavoring agents and colors may be added, usually after the candies are cooked but still hot enough to be fluid. Adding the flavoring agents at this stage reduces the tendency of volatile flavors to boil off. Some hard candy products have different layers, or areas within the candy that have a different composition. For example, candy canes combine white and red boiled hard candies so as to give spiral shaped red stripes on the outside of the white cylindrical body, which is then bent into a cane shape. Starlight mints are similarly made, but are larger in diameter and are cut off and formed into disks with multiple green or red zones around the periphery of the candy. Specification, page 1, paragraphs 3-4.

Many mint flavored candies include menthol or other cooling agents to give a cooling sensation when consumed. However, in some countries, food product regulations limit the level that some cooling agents can be used in products. Hence, it would be highly advantageous if a boiled hard candy product, and method of making the product, could be developed that would provide a fast, intense cooling flavor followed by

a more mild flavor, yet still meet applicable government regulations. Specification, pages 2-3, paragraph 6.

A boiled hard candy confectionary with a fast flavor release jacket coating has been invented. A boiled hard candy product is coated with a concentrated level of flavor by adding a higher level of cooling agent to a portion of the boiled hard candy that is jacketed onto the surface of a core portion of hard candy. This gives a hard candy product having a fast intense flavor initially, with a flavor that diminishes, leaving a mild flavored hard candy having good consumer acceptability. The product has a fast, intense flavor release, or "kick" flavor release, followed by a milder more pleasantly flavored product. Specification, page 2, paragraph 7.

An example of the inventive product is shown in Figs. 1 and 2. The candy 10 has an elongated shape and a flattened band 12 formed on the periphery of the candy 10. The hard candy 10 has a core 14 and an outer layer 16. While a distinct demarcation and relatively uniform thickness are shown in Fig. 2 for the outer layer 16, it is more likely that the actual interface between the core 14 and outer layer 16 will not be as smooth, nor will the thickness of the outer layer 16 be as uniform, in actual products. Specification, pages 3-4, paragraphs 16-17.

The hard candy used to make the core 14 and outer layer 16 are preferable boiled hard candies made by a standard procedure for hard candy processing, which includes cooking syrup, cooling the syrup and adding flavors, plastifying or forming the mixture, stamping/forming or depositing the mixture, cooling, and packing. It is preferred that the material used to form the core and the material used to form the outer layer have the same basic composition and be made together to the extent possible. It is of course also possible that the core and outer layer materials be made completely independent of one another. Specification, page 4, paragraphs 18-19.

When the core and outer layer material are made together, there are two basic variations. In the first variation, shown in Fig. 3, the material for the core and jacket are separated right after the syrup is cooked and before the flavors are added. In the other variation, shown in Fig. 4, the syrup has some flavoring agents and/or cooling agents added, and then the portion used to form the jacket has additional flavoring and/or cooling agents added. Otherwise the two basic variations are very similar. In both

methods, a first set of flavoring and cooling agents are mixed into the core portion and a second set of flavor and cooling agents are mixed into the jacket portion. Of course, the flavoring and cooling agents used in both sets may be the same or different. Each set may contain only one ingredient, or multiple ingredients. One or both of the sets may contain both flavoring and cooling agents. The level of cooling agents in the jacket material, however, is higher than the level of any cooling agents in the core portion.

Specification, page 4, paragraph 20.

The bulk sweetener, such as hydrogenated isomaltulose, water and preferably a high-intensity sweetener, such as acesulfame K, are blended together in a presolution tank 40. In some embodiments of the invention, a color and/or an acid may also be included at this stage. This material is held at a temperature that will keep the bulk sweetener dissolved. Next the blend is fed into a batchwise or continuous cooker 42, preferably a vacuum cooker. The cooked syrup is next separated (in the embodiment of Fig. 3), and the core portion, which is considered to be a first sweetened mass, is fed into an inline mixer 43, which may comprise a number of inlets and baffles. A powder feeder 44 may be used to add any dry flavoring and/or cooling agents and high-intensity sweetener. For example, a powder feeder can feed a blend of crystalline menthol and aspartame into one feed port in the inline mixer 43. One or more liquid tanks, such as flavor tank 45 and acid tank 46, may be used to hold liquid flavoring and cooling agents. In addition, these tanks may hold combinations of liquid ingredients. For example, the acid tank 46 may hold a combination of acid and high-intensity sweetener. A similar powder feeder 54 and flavor tank 55 may supply a second inline mixer 53 used to add flavoring and/or cooling agents to the remaining cooked syrup, referred to as a second sweetened mass, used to make the outer or jacket layer. Specification, page 5, paragraph 21.

The cooled and flavored core and jacket materials exit the inline mixers 43 and 53. From there they are deposited on cooling belts 62 and 63. The material used to form the core is fed into the head end of a batch roller 68 that forms the material into a continuous stream or continuous rope. The material used to form the jacket is metered in on top of the rope of core material and forms an outer layer on the rope. The cross sectional area of the jacketed rope is reduced by sizing rollers 72 to get the product to a

desired size. Preferably a die former 74 is then used to form individual products from the jacketed rope. These products may be cooled in cooling tunnel 76 before being wrapped and packaged. Specification, pages 5-6, paragraph 22.

The equipment used in the embodiment of Fig. 4 may be the same as shown in Fig. 3. The primary difference is that in this embodiment, all of the material enters inline mixer 143. After having flavoring and/or cooling agents mixed in, one portion is separated off as the core portion and deposited on cooling belt 162. The other portion, which is the jacket portion, is fed into inline mixer 153 where cooling agents and optionally flavoring agents and high-intensity sweetener are added. The jacket material is then deposited on cooling belt 163. Thereafter the process is exactly the same as in Fig. 3. In the preferred method embodiment of the present invention, the jacket material is added to the batch roller and covers or jackets the core material at a rate of about 5%-30% of the core material. Specification, page 6, paragraph 23.

Thus, the invention includes a jacketed hard candy product comprising a core made of a boiled hard candy containing one or more flavoring and cooling agents; and an outer layer also made of a boiled hard candy and containing one or more flavoring and cooling agents. The outer layer is jacketed onto the core so as to cover at least a majority of the core. The level of cooling agents in the outer layer is greater than the level of any cooling agents in the core. See claim 1.

These inventive methods and products allow adding a higher level of coolant to the jacket of the hard candy, which allows the cooling flavor to be perceived more quickly to give a strong initial impact for a hard candy confection. This also allows greater cooling impact without using high levels of coolants, which may be prohibitive in some countries due to food content regulation. Specification, page 13, paragraph 51.

## **VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL**

1. Claims 1-21, 30, 31 and 33 were rejected under 35 U.S.C. § 102(b) as anticipated by PCT Publication No. WO 97/06695 (Hanke).
2. Claims 6 and 34 were rejected under 35 U.S.C. §103(a) as unpatentable over Hanke.

3. Claims 7, 14 and 15 were rejected under 35 U.S.C. §103(a) as unpatentable over Hanke in view of U.S. Patent No. 6,306,429 (Bealin-Kelly).
4. Claim 21 was rejected under 35 U.S.C. §103(a) as unpatentable over Hanke in view of U.S. Patent No. 4,452,825 (Klacik).
5. Claims 35 and 36 were rejected under 35 U.S.C. § 103(a) as being obvious over Hanke in view of page 231 of the publication “New Ingredients in Food Processing” (Linden and Lorient).

## **VII. ARGUMENT**

### **A. Claims 1-21, 30, 31 and 33 are patentable over PCT Publication No. WO 97/06695 (Hanke).**

#### **i. Claims 1-21, 30, 31 and 33**

Claims 1-21, 30, 31 and 33 were rejected under 35 U.S.C. § 102(b) as anticipated by PCT Publication No. WO 97/06695 (Hanke). This rejection is improper and must be reversed. Hanke does not disclose a jacketed hard candy as called for by the claims.

Claim 1 calls for a jacketed hard candy having a core made of boiled hard candy and an outer layer also made of a boiled hard candy jacketed onto the core so as to cover at least a majority of the core. Further, claim 1 requires that the core and outer layer both contain one or more flavoring and cooling agents, and the level of cooling agents in the outer layer is greater than the level of any cooling agents in the core.

Hanke discloses a confectionary product suitable for the relief of cough and cold symptoms comprising a coolant composition and a flavor composition in distinct and discrete regions of the product. While Hanke, on page 3, states that the product can be in the form of hard and soft candies, it does not disclose a jacketed hard candy as called for in claim 1.

The position in the Final Rejection, that Hanke discloses a jacketed hard candy, is predicated on a misinterpretation of Hanke. The Final Rejection points to page 3 of Hanke and the statement that the inventive confectionary product can take various forms, “including hard and soft candies”. This is not disputed. The Final Rejection then

points out the Hanke states that the confectionary product may have an outer coating of either the coolant or the flavor composition. This likewise is not disputed. The Final Rejection then also points to a statement in Hanke that the “coating may be continuous, such as in a centre-filled candy”. Appellants agree with this statement. The next statement in the Final Rejection is where the Examiner makes a misinterpretation of the Hanke teachings. The Final Rejection states, “Thus, Hanke discloses a centre-filled or *jacketed candy* that is hard both inside and outside”. Final Rejection, page 5 (emphasis added). There is no disclosure of a jacketed candy in Hanke, and the Examiner’s treating of a centre-filled candy as a jacketed candy is completely unsupported. Further, the conclusion that a centre-filled candy would be hard on both the inside and outside is completely unfounded, and contrary to what Hanke teaches to a person of ordinary skill in the art.

While line 22 of page 3 of Hanke makes reference to “a centre-filled candy or dragee,” this is not the same as a jacketed hard candy product. Particularly, there is nothing in Hanke which suggests that the “centre-filled candy” has a hard candy center. There are other references in Hanke to center-filled products, and none of these have a hard candy center jacketed by a boiled hard candy. Page 2, lines 14-15 describe a prior art product with a hard candy outer shell and a powdered centerfill. Page 12, lines 14-17 describes an embodiment of the invention “using centre-filled candies wherein the confectionery product comprises a powdered filling of the flavour or cooling composition and the hard candy coat comprises the other of the flavour or cooling composition.” Thus, where specific center-filled products are discussed in Hanke, they have a powder center filling, and not a hard boiled candy as a core covered by a boiled hard candy jacket.

Hanke also discusses lozenges, which would typically be hard candies. However, lozenges are not typically center-filled, nor are they typically jacketed hard candies. Thus the fact that Hanke discloses a lozenge does not mean that it discloses a jacketed hard candy product.

In addition to the fact that a hard jacketed candy as called for in claim 1 is not explicitly disclosed, Hanke does not inherently disclose such a product either. There are a number of products that could include a hard candy and be within the scope of the

claims of Hanke that would not be jacketed hard candies. Hanke requires that a coolant composition and a flavor composition are in discrete regions. A center-filled hard candy with a powder center filling, such as discussed on page 12 of Hanke, could be made with the flavor composition in the hard candy and the coolant composition in the powdered center fill. Page 10 discusses an embodiment that uses a crystalline coating containing the flavor applied on a lozenge. Again, this would not be a jacketed hard candy. A laminated hard candy could also be made with two layers of hard candy, one on top of the other, with a flavor composition in one layer and a coolant composition in the other layer. This hard candy would not be considered a jacketed hard candy because one layer would only cover one side of the other layer, and not form a jacket around a core. Thus there are a number of hard candy products that would meet the description and claims of Hanke that are clearly not a hard jacketed candy as called for in claim 1.

As noted above, Hanke does not expressly disclose a core made of a boiled hard candy containing one or more flavoring and cooling agents and an outer layer also made of a boiled hard candy and containing one or more flavoring and cooling agents, the outer layer being jacketed onto the core so as to cover at least a majority of the core, as required by claim 1. Since there are embodiments of Hanke that would not fit within the scope of claim 1 of the present application, Hanke does not inherently disclose the invention of claim 1 either. Further, while Hanke does require the product to have a coolant composition in one region and a flavor composition in another region, there is no disclosure of a jacketed hard candy with the level of cooling agents in the outer layer being greater than the level of any cooling agents in the core, as also required by claim 1. Thus claim 1, and claims 2-20, 30, 31 and 33 dependent thereon, are not anticipated by Hanke.

## **ii. Claims 2, 3 and 33**

Claims 2, 3 and 33 are further patentable over Hanke. Claim 2 calls for the ratio of the weight of the core to the weight of the outer layer to be between about 95:5 and about 70:30. Claim 3 calls for the ratio of the weight of the core to the weight of the outer layer to be between about 80:20 and about 90:10. Claim 33 calls for the weight of the outer layer to comprise about 15% of the total product. The Final Rejection asserts

that Hanke discloses these ratios on page 13, paragraph 3. Paragraph 3 on page 13 discusses a gum or pastille body, neither of which are jacketed hard candies. The pastilles are softened and tumbled in a drum with cooling agent-treated sugar crystals. The sugar crystals that stick to the pastille can be 5% to about 15% of the finished pastille weight. There is nothing in Hanke that would suggest that a jacketed hard candy could be made, much less with the ratio of 5% to 15% jacket on the cores. The Final Rejection argues that these teachings in Hanke apply to all inventive embodiments of Hanke, including a hard candy product. This position is unsupported by the reference. The statement on page 13 of Hanke is that, "The amount of cooling composition picked up will vary according to the size and geometry of the pastille but will typically be in the range of about 5% to about 15% of the pastille." Thus the language of Hanke itself is clear that the 5-15% figures is for the amount of cooling composition picked up during the tumbling, coating operation. Since a jacketed hard boiled candy called for in claims 2, 3 and 33 would not be formed by such a process, the teachings of the level of coating applied by a tumbling operation are not applicable to such a product. This misapplication of a characteristic of one product of Hanke to all other supposed products of Hanke is a clear example of the faulty logic applied by the Examiner in rejecting claims 2, 3 and 33, as well as other claims. Since it is clear that this part of Hanke is not applicable to boiled hard jacketed candies, claims 2, 3 and 33 are further patentable over Hanke.

### **iii. Claim 5**

Claim 5 requires the jacket to comprise about 0.01% to about 2% menthol. The Final Rejection, referring to the earlier Office Action, takes the position that since the coolant composition can comprise 0.1-0.15% of a cooling agent (citing page 8, paragraph 2), this is the same as disclosing a "jacket" with 0.1-0.15% cooling agent. However, as noted above, there is no disclosure or suggestion in Hanke of forming a jacketed product with a hard boiled candy center and a hard boiled candy jacket. Hence, there is no suggestion that the cooling composition, even if it contains 0.1-0.15% cooling agent, is used as a jacket. Claim 5 is thus further patentable over Hanke.

#### **iv. Claims 19 and 20**

Claim 19 requires that the one or more flavoring and cooling agents in the core and in the outer layer both comprise menthol, and that the ratio of the level of menthol in the outer layer to the ratio of the level of menthol in the core is at least 1.5:1. Claim 20 requires the ratio of menthol level in the outer layer to the menthol level in the core to be at least 2:1. The Final Rejection, referring to the earlier Office Action, points out that the “flavor composition” of Hanke includes at most trace amounts of cooling agents, and the cooling composition contains 0.10% - 15% cooling agent. However, there is no discussion of how the coolant composition and flavor composition somehow form a core and outer layer. Rather, the Office Action conveniently makes statements such as, “the outer coating *or jacket*”, and “the coolant composition *or jacket*”. However, as noted above, there is no suggestion in Hanke of making a jacketed product with a hard boiled candy center and a hard boiled candy jacket. Hence, there is no suggestion that the cooling composition, even if it contains 0.1-0.15% cooling agent, is used as a jacket, and that the outer layer would have at least 1.5 times the amount of menthol compared to the level of the core. Claims 19 and 20 are thus further patentable over Hanke.

#### **B. Claims 6 and 34 are patentable over Hanke.**

In the Final Rejection, claims 6 and 34 were rejected under 35 U.S.C. § 103(a) as being obvious in view of Hanke. This rejection is also improper and must also be reversed. Claims 6 and 34 are dependent on claim 1 and include the limitations of claim 1 not found in Hanke. There would be no reason, other than hindsight of the present invention, to modify Hanke and use a jacketed hard candy as called for by claim 1 to make the product of Hanke. Certainly the Final Rejection makes no explanation of any motivation to change the products disclosed in Hanke to be a jacketed hard candy, but instead relies on the fallacy that Hanke discloses a jacket hard candy. Thus claims 6 and 34 are patentable over Hanke.

#### **C. Claims 7, 14 and 15 are patentable over Hanke and U.S. Patent No. 6,306,429 (Bealin-Kelly)**

In the Final Rejection, claims 7, 14 and 15 were rejected under 35 U.S.C. § 103(a) as being obvious over Hanke in view of U.S. Patent No. 6,306,429 (Bealin-

Kelly). This rejection is also improper and must also be reversed. Bealin-Kelly, like Hanke, discloses throat drops for relief of cough and cold symptoms. Also, like Hanke, Bealin-Kelly discloses “centre-filled confectionery compositions.” Also, like Hanke, there is no suggestion that those center-filled compositions would provide a core made of a boiled hard candy and an outer layer also made of a boiled hard candy jacketed onto the core. Instead, as noted in Bealin-Kelly col. 4, lines 56-58, the “filling can be a solid, particularly a powder, or a liquid, including forms of intermediate consistency such as a paste or a gel.” This is consistent with the general understanding, that center-filled products have a filling that is a powder or liquid or gel, rather than a boiled hard candy core that has a boiled hard candy jacketed onto it. Since claims 7, 14 and 15 are dependent on claim 1, they differ from Hanke as noted above with respect to claim 1. Further, since Bealin-Kelly does not disclose the features noted as being missing in Hanke, the combination of Hanke and Bealin-Kelly is also missing these features. Thus, claims 7, 14 and 15 are patentable over Hanke and Bealin-Kelly.

**D. Claim 21 is patentable over Hanke and U.S. Patent No. 4,452,825 (Klacik).**

In the Final Rejection, claim 21 was rejected under 35 U.S.C. § 103(a) as being obvious over Hanke in view of U.S. Patent No. 4,452,825 (Klacik). This rejection is also improper and must also be reversed. Claim 21 is dependent on claim 1, and thus differs from Hanke for at least the reasons specified above. Klacik discloses a sorbitol hard candy that is made by depositing in a mold. There is no suggestion of jacketing one boiled hard candy onto another boiled hard candy. Thus claim 21 is patentable over Hanke and Klacik.

**E. Claims 35 and 36 are patentable over Hanke and page 231 of the publication “New Ingredients in Food Processing” (Linden and Lorient).**

In the Final Rejection, claims 35 and 36 were rejected under 35 U.S.C. § 103(a) as being obvious over Hanke in view of page 231 of the publication “New Ingredients in Food Processing” (Linden and Lorient). This rejection is also improper and must also be reversed. Claims 35 and 36 are dependent on claim 1, and thus differ from Hanke for at least the reasons identified above. While Linden and Lorient discloses that

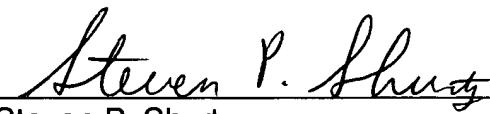
aspartame is 200 times sweeter than sucrose, there is no suggestion that aspartame be used in a jacketed hard boiled candy. Thus claims 35 and 36 are patentable over Hanke and Linden and Lorient.

#### **VIII. CONCLUSION**

Appellants have made a novel and nonobvious contribution to the art of to the art of jacketed hard candy products. The claims at issue distinguish over the cited references. The present invention is not obvious in view the cited prior art. The references are being combined based solely on hindsight reconstruction of the invention. A person of ordinary skill in the art would not combine the references as suggested in the Final Rejection.

Appellants submit that the present invention is fully patentable over the cited references and the Examiner should be REVERSED.

Respectfully submitted,

  
\_\_\_\_\_  
Steven P. Shurtz  
Registration No. 31,424  
Attorney for Appellants

Dated: December 11, 2006

BRINKS HOFER GILSON & LIONE  
P.O. Box 10395  
Chicago, IL 60610  
(312) 321-4200  
Direct Dial: (801) 355-7900

## CLAIMS APPENDIX

### CLAIMS ON APPEAL

1. A jacketed hard candy product comprising:
  - a) a core made of a boiled hard candy containing one or more flavoring and cooling agents; and
  - b) an outer layer also made of a boiled hard candy and containing one or more flavoring and cooling agents, the outer layer being jacketed onto the core so as to cover at least a majority of the core, and the level of cooling agents in the outer layer being greater than the level of any cooling agents in the core.
2. The product of claim 1 wherein the ratio of the weight of the core to the weight of the outer layer is between about 95:5 and about 70:30.
3. The product of claim 1 wherein the ratio of the weight of the core to the weight of the outer layer is between about 80:20 and about 90:10.
4. The product of claim 1 wherein the composition of the core and the composition of the outer layer are the same except for the level of the one or more flavoring and cooling agents.
5. The product of claim 1 wherein the jacket comprises about 0.01% to about 2% menthol.
6. The product of claim 1 wherein the product comprises between about 0.01% and about 2% flavoring agents.
7. The product of claim 1 wherein the product comprises between about 0.001% and about 1% cooling agents.
8. The product of claim 1 wherein the product is sugarless.
9. The product of claim 1 wherein the boiled hard candies of the core and outer layer are both made from the same bulk sweetener selected from the group

consisting of sugars, corn syrup, polyols, hydrogenated starch hydrolysate syrup and combinations thereof.

10. The product of claim 1 wherein the boiled hard candies of the core and outer layer are both made from the same bulk sweetener selected from the group consisting of sucrose, dextrose, lactose, corn syrup and combinations thereof.

11. The product of claim 1 wherein the boiled hard candies of the core and outer layer are both made from the same bulk sweetener selected from the group consisting of hydrogenated isomaltulose, xylitol, maltitol, hydrogenated starch hydrolysate and combinations thereof.

12. The product of claim 8 wherein the boiled hard candy of the core comprises hydrogenated isomaltulose.

13. The product of claim 1 wherein the cooling agent in the outer layer is selected from the group consisting of substituted p-menthane carboxamides, acyclic carboxamides, menthone glycerol ketals, menthyl lactate, menthyl succinate, menthyl glutarate, 3-*l*-menthoxypropane-1,2 diol and mixtures thereof.

14. The product of claim 1 wherein the one or more flavor and cooling agents used in the core and outer layer comprise N, 2, 3-trimethyl-2-isopropyl butanamide at a level of between about 0.002% and about 0.015% of the product.

15. The product of claim 1 wherein the one or more flavor and cooling agents used in the core and the outer layer combined comprise 3-*l*-menthoxypropane-1,2 diol at a level of between about 0.005% and about 0.05% of the product.

16. The product of claim 1 wherein the boiled hard candies of the core and outer layer both comprises a color.

17. The product of claim 15 wherein the color of the core and of the outer layer are the same.

18. The product of claim 15 wherein the color of the core and of the outer layer are different.

19. The product of claim 1 wherein the one or more flavoring and cooling agents in the core and in the outer layer both comprise menthol, and the ratio of the level of menthol in the outer layer to the ratio of the level of menthol in the core is at least 1.5:1.

20. The product of claim 19 wherein the ratio of menthol level in the outer layer to the menthol level in the core is at least 2:1.

21. The product of claim 1 wherein the product is clear, and the product core and outer layers appear to be homogeneous.

30. The product of claim 1 wherein the outer layer covers about 80% or more of the core.

31. The product of claim 1 wherein the outer layer covers substantially all of the core.

33. The product of claim 1 wherein the weight of the outer layer comprises about 15% of the total product.

34. The product of claim 1 wherein the product has an elongated shape.

35. The product of claim 1 wherein the product further comprises one or more high-intensity sweeteners selected from the group consisting of acesulfame K, aspartame, alitame, sucralose, glycyrrhizin, saccharin and cyclamates.

36. The product of claim 35 wherein the high-intensity sweetener is included at a level of about 0.001% to about 2% of the product.

## EVIDENCE APPENDIX

None

## RELATED PROCEEDINGS APPENDIX

None